

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO. 118 OF 2005

WITH

CIVIL APPLICATION NO. 201 OF 2005

Office Notes, Office Memoranda of :
coram, appearances, Court's Orders: Court's or Judge's orders
or directions and Registrar Orders:

Mr.Palan with Mr.Shamim i/b Shamim &
Co. for the Appellant.

Mr.Cyrus Ardeshir with Ms. Rashida
Kutty and Mr.Ayaz Bilawala i/b Bilawala
& Co. for the Respondent.

CORAM : H.L. GOKHALE &
MRS. R.S. DALVI, JJ.

DATE : 19TH OCTOBER 2005

P.C. :

1. This Appeal filed by a muslim wife seeks to challenge the judgment and order of the Family Court at Mumbai passed on 8th June 2005 on Petition No.A-1172 of 2000. This petition was filed by the Respondent husband. He had applied for restitution of conjugal rights and certain other ancillary benefits and also had sought to establish his claim on certain properties which he claimed to be his

property though they were in possession of the Appellant wife. The Family Court has decreed that petition by the impugned judgment and order. The court has held that the marriage solemnised between them on 27th April 1985 is subsisting and that the Respondent is entitled to the decree of restitution. He was also declared to be beneficial tenant / owner of three properties, viz. (a) a shop premises situated at Vasai, (b) a flat situated at Noor Society at Vasai, and (c) a bungalow by name "Royal Villa" at CIDCO, Navi Mumbai.

2. The Appellant having filed this Appeal, the matter was heard and the parties have arrived at an understanding. Minutes are signed by the Appellant and the Constituted Attorney of the Respondent. They are also signed by their advocates on record. The Appellant and the Constituted Attorney of the Respondent both know English and have signed the minutes with full understanding. The minutes are taken on record and marked

"X" for identification.

3. Under first para of these minutes, the Appellant wife is seeking dissolution of her marriage under the provisions of Dissolution of Muslim Marriages, Act, 1939 to which the Respondent has agreed and therefore it is provided thereunder that parties have agreed and they declare by these minutes that the marriage solemnised between them stands dissolved and the decree for divorce be granted by this court.

4. Thereafter it is recorded that the Respondent is giving up his claim for the bungalow known as "Royal Villa" whereas the Appellant has given up her claim over the flat in Noor Society at Vasai and the shop premises at Vasai. The Respondent husband has provided a sum of Rs.4,50,000/- towards full and final settlement of the claim of maintenance as recorded in clause (8) of the consent terms. The Respondent is provided full access to the two children under clause (7) of the

consent terms.

5. There are various undertakings contained in these consent terms and they are accepted and the parties are directed to act accordingly.

6. There will be an order in terms of these minutes and this order will stand substituted in place of the order which was passed by the Family Court.

7. Appeal stands disposed of in the aforesaid terms.

8. In view of the aforesaid order, Civil Application also stands disposed of.

(H.L. GOKHALE, J.)

(MRS. R.S. DALVI, J.)